

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Ann Marie Morrissey,

Plaintiff,

v.

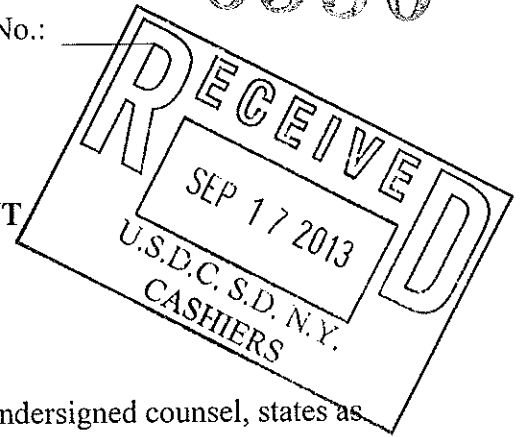
Citibank NA,

Defendant.

Civil Action No.:

COMPLAINT

13 CIV 6550



For this Complaint, Plaintiff, Ann Marie Morrissey, by undersigned counsel, states as follows:

**JURISDICTION**

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business here and a substantial portion of the acts giving rise to this action occurred here.

**PARTIES**

3. Plaintiff, Ann Marie Morrissey ("Plaintiff"), is an adult individual residing in Nashua, New Hampshire.
4. Defendant, Citibank NA ("Citibank"), is a New York business entity with an address of 399 Park Avenue, New York, New York, 10043.

**FACTS**

5. Beginning in or around June 2013, Citibank placed multiple calls to Plaintiff's cellular telephone using an automatic telephone dialing system ("ATDS").
6. When answering Citibank's telephone calls, Plaintiff heard a brief moment of

silence before a live representative came on the line.

7. On several occasions, Plaintiff requested that Citibank cease the automated calls to her cellular telephone.

8. Nonetheless, Citibank continued to hound Plaintiff with automated calls.

**COUNT I**  
**VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –**  
**47 U.S.C. § 227, ET SEQ.**

9. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

10. Without express consent, Defendant contacted Plaintiff by means of automated telephone calls on her cellular telephone in violation of 47 U.S.C. § 227(b)(1)(A)(iii). As such, each call placed to Plaintiff is a knowing and/or willful violation of the TCPA, and is therefore subject to treble damages of \$1,500.00 per call pursuant to 47 U.S.C. § 227(b)(3)(C).

11. In the alternative, as a result of each negligent call made in violation of the TCPA, Plaintiff is entitled to an award of \$500.00 for each call pursuant to 47 U.S.C. § 227(b)(3)(B).

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that judgment be entered against Defendant:

1. Statutory damages for each violation, pursuant to 47 U.S.C. § 227(b)(3)(B) & (C);
2. Attorney's costs and fees; and
3. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: September 13, 2013

Respectfully submitted,

By 

Sergei Lemberg, Esq. (SL 6331)  
LEMBERG & ASSOCIATES L.L.C.  
1100 Summer Street, 3<sup>rd</sup> Floor  
Stamford, CT 06905  
Telephone: (203) 653-2250  
Facsimile: (203) 653-3424  
Attorneys for Plaintiff